IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRI.REVISION APPLN.NO.185 OF 1998

Sadashiv Maruti Chikane
Age 55 years, Occ: Agri.
R/o Chikanwadi, Tal.Jaoli,
Dist.Satara ..Applicant

Vs.

State of Maharashtra ..Respondents

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Mr.S.V.Sadavarte advocate for applicant
Mr.S.S.Pednekar A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 4, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. I have perused the judgment and order of both the courts below. I have also perused the record.

3. The prosecution case is that on 19.4.1988 in the morning at about 10.00 a.m. the complainant Nathyaba, the present applicant, deceased Pandurang and others went for hunting. The applicant Sadashiv took his gun with him. While searching for the target, he loaded the gun with one

cartridge. After sometime, while they were climbing down the hill, the gun was hanging on the shoulder of the applicant-accused. Pandurang (deceased) was following the applicant. The foot path was in a zig-zag position. While all of them were climbing down the hill, they heard noise of explosion like a cracker. Witnesses saw the applicant hurriedly getting up and trying to catch Pandurang. At that time, it was noticed that Pandurang had sustained bullet injuries on the thighs. While climbing down the hill, the applicant had slipped and his fingers fell on the trigger of the gun. Due to this, the trigger was pressed and bullet came to be fired at the legs of Pandurang. Thereafter, Pandurang was brought to his house and kept in the court-yard. However, Pandurang expired at about 7.45 p.m. On the next day, the FIR came to be registered. The trial Court came to the conclusion that the applicant had rashly and negligently misused the gun, due to which, the bullet came to be fired from the said gun and Pandurang sustained injuries due to this and died.

4. From the record, it is seen that while climbing

down the hill the foot path which was in a zig-zag position, the applicant's foot had slipped. Due to this, his finger fell on the trigger and the bullet accidentally came to be fired thereby causing injuries to Pandurang. It is seen that the applicant himself had slipped due to which the shot was fired accidently. The applicant himself had met with an accident and there was no rash and negligent act on his part. No doubt, the gun belonged to the applicant. However, from the facts of this case, it cannot be said that the applicant had rashly and negligently misused the gun and due to this, Pandurang sustained injuries and died. In this view of the matter, the judgment and order dated 15.9.1992 passed by the learned Judicial Magistrate f.C. Medha and the order dated 24.7.1998 passed by the learned Addl. Sessions Judge Satara are set aside and the applicant-accused is acquitted in the said case. Rule made absolute.

[Smt.V.K.Tahilramani, J.]